

Dukes - 20/20 Perfect Vision i2 Document Detail Report

Current datetime: 6/2/2020 7:55:32 AM

Doc#	Document Type	Town	Book/Page	File Date	Consideration
3059	ORDER		01530/627	06/01/2020	
Property-Street Address and/or Description					
SE79-413, 1424/886					
Grantors					
WEXLER LEWIS, WEXLER SHERRI					
Grantees					
WEST TISBURY TOWN CONSERVATION					
References-Book/Pg Description Recorded Year					
01424/886 DEED 2016					
Registered Land Certificate(s)-Cert# Book/Pg					



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131,
and the West Tisbury Wetlands Protection Bylaw and
Regulations

Provided by MassDEP:

SE79-413

MassDEP File #

eDEP Transaction #

WEST TISBURY

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A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):

Dukes

a. County

1424

c. Book

b. Certificate Number (if registered land)

886

d. Page

7. Dates: February 3, 2020 April 21, 2020 May 12, 2020
a. Date Notice of Intent Filed b. Date Public Hearing Closed c. Date of Issuance

8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):

Site Plan in West Tisbury, Mass Prepared for Sherri Wexler

a. Plan Title

Vineyard Land Surveying & Engineering,
Inc.

April 21, 2020

d. Final Revision Date

unsigned not stamped

c. Signed and Stamped by

1"=20'

e. Scale

Email detailing erosion control measures and mitigation landscaping (VLS)

f. Additional Plan or Document Title

April 16, 2020

g. Date

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). Check all that apply:

- a. Public Water Supply b. Land Containing Shellfish c. Prevention of Pollution
d. Private Water Supply e. Fisheries f. Protection of Wildlife Habitat
g. Groundwater Supply h. Storm Damage Prevention i. Flood Control

2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

Approved subject to:

- a. the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.



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B. Findings (cont.)

Denied because:

- b. the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c. the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**
- 3. **Buffer Zone Impacts:** Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) 0
a. linear feet

Inland Resource Area Impacts: Check all that apply below. (For Approvals Only)

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input checked="" type="checkbox"/> Bank	<u> </u> a. linear feet	<u> </u> b. linear feet	<u> </u> c. linear feet	<u> </u> d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
	<u> </u> e. c/y dredged	<u> </u> f. c/y dredged		
7. <input type="checkbox"/> Bordering Land Subject to Flooding	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
Cubic Feet Flood Storage	<u> </u> e. cubic feet	<u> </u> f. cubic feet	<u> </u> g. cubic feet	<u> </u> h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	<u> </u> a. square feet	<u> </u> b. square feet		
Cubic Feet Flood Storage	<u> </u> c. cubic feet	<u> </u> d. cubic feet	<u> </u> e. cubic feet	<u> </u> f. cubic feet
9. <input type="checkbox"/> Riverfront Area	<u> </u> a. total sq. feet	<u> </u> b. total sq. feet		
Sq ft within 100 ft	<u> </u> c. square feet	<u> </u> d. square feet	<u> </u> e. square feet	<u> </u> f. square feet
Sq ft between 100-200 ft	<u> </u> g. square feet	<u> </u> h. square feet	<u> </u> i. square feet	<u> </u> j. square feet



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B. Findings (cont.)

Coastal Resource Area Impacts: Check all that apply below. (For Approvals Only)

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	a. square feet	b. square feet	c. $\frac{\text{cu yd}}{\text{nourishment}}$	d. $\frac{\text{cu yd}}{\text{nourishment}}$
14. <input type="checkbox"/> Coastal Dunes	a. square feet	b. square feet	c. $\frac{\text{cu yd}}{\text{nourishment}}$	d. $\frac{\text{cu yd}}{\text{nourishment}}$
15. <input type="checkbox"/> Coastal Banks	<u>7</u> a. linear feet	<u>7</u> b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	a. square feet	b. square feet		
17. <input type="checkbox"/> Salt Marshes	a. square feet	b. square feet	c. square feet	d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	<3 (12-2" pipes) a. square feet	same b. square feet		
	c. c/y dredged	d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	a. square feet	b. square feet	c. square feet	d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	a. c/y dredged	b. c/y dredged		
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	a. square feet	b. square feet		
22. <input type="checkbox"/> Riverfront Area	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet



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B. Findings (cont.)

* #23. If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (BVW) or B.17.c (Salt Marsh) above, please enter the additional amount here.

23. Restoration/Enhancement *:

a. square feet of BVW

b. square feet of salt marsh

24. Stream Crossing(s):

a. number of new stream crossings

b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. The work is a maintenance dredging project as provided for in the Act; or
 - b. The time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
 - c. If the work is for a Test Project, this Order of Conditions shall be valid for no more than one year.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order. An Order of Conditions for a Test Project may be extended for one additional year only upon written application by the applicant, subject to the provisions of 310 CMR 10.05(11)(f).
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on _____ unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.



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C. General Conditions Under Massachusetts Wetlands Protection Act

8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,

"Massachusetts Department of Environmental Protection" [or, "MassDEP"]
"File Number SE79-413 "
11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.
19. The work associated with this Order (the "Project")
- (1) is subject to the Massachusetts Stormwater Standards
- (2) is NOT subject to the Massachusetts Stormwater Standards

If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:

- a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
- i. all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
 - ii. as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
 - iii. any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;
- v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.
- c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following:
- i.) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and
- ii.) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.
- d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.
- e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.
- f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- g) The responsible party shall:
 1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
 2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
- l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions (if you need more space for additional conditions, please attach a text document):

See Exhibit A attached hereto and incorporated herein by this reference.

- 20. For Test Projects subject to 310 CMR 10.05(11), the applicant shall also implement the monitoring plan and the restoration plan submitted with the Notice of Intent. If the conservation commission or Department determines that the Test Project threatens the public health, safety or the environment, the applicant shall implement the removal plan submitted with the Notice of Intent or modify the project as directed by the conservation commission or the Department.



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D. Findings Under Municipal Wetlands Bylaw or Ordinance

- 1. Is a municipal wetlands bylaw or ordinance applicable? Yes No
- 2. The West Tisbury hereby finds (check one that applies):
Conservation Commission
 - a. that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

1. Municipal Ordinance or Bylaw

2. Citation

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

- b. that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:

West Tisbury Wetlands Protection Bylaw and Regulations

Exhibit A

1. Municipal Ordinance or Bylaw

2. Citation

- 3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.
The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):
See Exhibit A attached hereto and incorporated herein by this reference.



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E. Signatures

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

5-12-2020

1. Date of Issuance

Please indicate the number of members who will sign this form.

4

This Order must be signed by a majority of the Conservation Commission.

2. Number of Signers

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

See Certificate of Vote regarding electronic signatures recorded in the Dukes County Registry of Deeds in Book 1530, Page 619.

Signatures:

DocuSigned by:

Peter Rodegast

45F8EE2088A18E DocuSigned by:

Tara J. Whiting-Wells

E164EC8E001C4C7... DocuSigned by:

Walt Griswold

C787C40EAF2E49F... DocuSigned by:

[Signature]

7214891281004DE...

by hand delivery on

by certified mail, return receipt requested, on

5-12-2020

Date

Date



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F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.

EXHIBIT A

Special Conditions
Map 35 Lot 1.2
122 Pond View Farm Road
DEP File # SE79-413

Project Description and Jurisdiction: The applicant filed a Notice of Intent on February 3, 2020 for the relocation of a seasonal dock originally approved under a Superseding Order of Conditions SE79-234 issued to Janice B. Manter by DEP in 2005.

The applicant seeks to relocate a 48-foot seasonal bottom anchored floating dock in Muddy Cove on the Tisbury Great Pond with a fixed pipe piling structure on the south end of the property to avoid traveling over an area in the cove that shoals over at low pond. The specifications of the new seasonal dock components are shown on cross section of the project plan identified below. The new structure will be accessed via a three (3) foot wide mown path.

This project was reviewed under the Massachusetts Wetlands Protection Act and Regulations at 310 CMR 10 (the "Act. Specifically, 10.24 (General Provisions) 10.30 (Coastal Bank) and 10.33(Land under a Salt Pond) and 10.34 (Land Containing Shellfish).

Under the West Tisbury Wetlands Protection Bylaw ("Bylaw"), this project was reviewed for compliance with Sections IV (Buffer Zone), XI (Salt Ponds), XII (Land containing Shellfish), and XXII (Docks and Piers).

Tisbury Great Pond is a coastal salt pond that is manually opened to the ocean. This causes fluxation in the water level in Muddy Cove such that boats and floats have a tendency to bottom out at low pond. Under 310 CMR 10.33, the Commission is required to presume that land under a salt pond is significant to the protection of marine fisheries and, where there are shellfish beds present, to the protection land containing shellfish. This presumption of significance may only be overcome upon a clear showing the land under a salt pond does not play a role in the protection of these resource areas.

Work to install this project will require permanent alteration to the coastal bank for the installation of the pad and annual alteration of land under a salt pond when the seasonal pipe pilings are installed and removed.

A letter from the Division of Marine Fisheries (DMF) dated February 11, 2020 recommended the use of piles to secure the floats because the old system of chains with bottom anchors can cause turbidity in the water column. Due to the difficulty in determining how deep the water is a low pond, DMF also recommended that floats be piled supported with stops to maintain at least 18" of separation between the bottom of the float and the substrate to protect benthic habitat. The applicant has agreed to set the float stops at 24" off the substrate.

Construction of a new house on this property resulted in a lack of vegetation on the slope towards the pond that caused significant erosion from surface runoff. In addition, there

EXHIBIT A

has been unauthorized pruning and removal of several trees within the No-Disturbance Zone as defined under the Bylaw. The Applicant's representative submitted an email dated April 16, 2020 that provided minimal details for mitigation with photographs of the location for the planting of Viburnum.

Hearings were held on March 10, March 24, and April 21 at which meeting the public hearing was closed.

Findings:

In making a decision on this project, the Commission has considered the magnitude of alteration, the environmental significance of the site, reasonable alternatives, and the minimization of impact and the extent of mitigation measures.

The Commission finds that the design of the new seasonal dock is in compliance with the performance standards at 310 CMR 10.33, and with compliance of the performance standards at Section IX, XI, and XXII of the Bylaw provided that the following special conditions are adhered to.

The Commission finds that the work including mitigation measures will have no significant adverse impact on the resource areas and will serve to protect the interests identified in the Act and the Bylaw.

Special Conditions

- 1) The applicant and the Applicant's agent(s) shall adhere to General Conditions 1 through 17 of this Order.
- 2) The term "Applicant" as used in this Order of Conditions shall refer to the owner, any successor in interest or successor in control of the property referenced in the Notice of Intent, supporting documents and this Order of Conditions. The Commission shall be notified in writing within 30 days of all transfers of title of any portion of property that take place prior to issuance of the Certificate of Compliance.
- 3) The form provided at the end of this Order shall be completed and stamped at the Dukes County Registry of Deeds, after the expiration of the 10-day appeal period and if no request of appeal has been filed with the Department of Environmental Protection. This form should be returned to the Commission in accordance with General Condition 8, and prior to the commencement of work.
- 4) The Commission has approved this project in accordance with the specifications shown on a plan entitled, "Site Plan Prepared for Sherri Wexler" dated March 10, 2020 as revised to April 21, 2020 ("Project Plan"). The structure shall be built in accordance with the Project Plan. All notes on the Project Plan are adopted as additional conditions unless otherwise stated, except that, where the Commission's orders are more restrictive they shall apply. No deviations from the Project Plan or

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from these orders are permitted without prior written approval from the Commission. See general conditions No. 13 and No. 14 regarding approval of changes in the Project Plan.

- 5) As mitigation for unauthorized pruning and removal of trees and shrubs in the Buffer Zone, the Applicant's representative or landscaper shall provide a written inventory of the mitigation plantings including size and quantity to the Commission prior to installation in the field. Any plants that do not survive after two growing seasons shall be replaced before a Certificate of Compliance will be issued.
- 6) Prior to commencement of any work to install this dock, the Applicant, Applicant's representative, or the contractor installing this structure shall provide a written description to the Commission office of all materials to be used in the construction of the pad, posts, ramp and floats. All hardware used on this structure shall be galvanized. The use of Styrofoam or pressure treated wood is prohibited.
- 7) A written plan for installation and hauling of the components of this structure shall be submitted to the Commission office.
- 8) **The contractor hired to perform the work to shall contact the Commission office at least 72 hours prior to beginning any activity permitted under this Order to arrange a site visit to review the terms of this permit.**
- 9) In order to protect any setting shellfish in this area and to maintain water quality and to minimize turbidity, the launching and removing of floats may only be accomplished when the elevation of the pond is significantly high to avoid disturbance to the bottom substrate. No construction, including installation and hauling of the dock, shall take place between June 1 and September 15. There shall be no off-season storage of floats seasonal dock materials, boats, canoes or kayaks on the beach, bank or within the Buffer Zone. **This ongoing condition does not expire with the issuance of a Certificate of Compliance.**
- 10) The pipes to be used as piles shall be mechanically driven and not jetted. The pad and pipes to anchor the structure to the coastal bank shall be placed by hand. All work to install this project will be done by hand. All areas disturbed during the installation or hauling of the dock shall be restored. **This ongoing condition does not expire with the issuance of a Certificate of Compliance.**
- 11) In order to avoid scour and bottoming out, float stops shall be set at 24" above the substrate as shown on the Project Plan.
- 12) All contractors shall review and adhere to these conditions of approval in performing the approved activities. Any adverse impact to a Resource Area caused by vehicles, equipment, or workers shall be mitigated immediately by the Applicant in consultation with the Commission.

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- 13) The path to the old dock location shall be allowed to grow in and no longer used as access to the pond. The erosion control measures put in place prior to the issuance of this permit shall remain in place until the area is stabilized and a site visit conducted.
- 14) In order to maintain the stability of the bank and to avoid erosion on the steep slope to the pond, the Applicant shall maintain a twenty-five (25) foot wide buffer strip along the coastal bank from property line to property line except for the mown path to the new dock. **This ongoing condition does not expire with the issuance of a Certificate of Compliance.**
- 15) The width of the new path that was installed prior to approval of this project shall be reduced in width to 3 feet. The path shall be seeded and monitored for erosion. The Applicant shall be required to mitigate any erosion on this path with water bars or other erosion control measures to be approved by the Commission prior to implementation in the field. The use of woodchips on the path is prohibited.
- 16) Powerboats shall be docked with their engines seaward and may not idle while tied to the pier. No petroleum products, fuels, paints, chemicals, or cleansers may be stored on the pier. No human habitation, toilets, painting, staining, sanding, varnishing, or scraping of a boat at the pier or within a resource area is allowed. **This ongoing condition does not expire with the issuance of a Certificate of Compliance.**
- 17) Dredging is neither proposed nor permitted under the Order. Evidence of such dredging will be sufficient cause, after notice and public hearing, for revocation of this Order or Certificate of Compliance and removal of the dock or such other remediation as the Commission may order. **This ongoing condition does not expire with the issuance of a Certificate of Compliance.**
- 18) No electric lighting is permitted on the dock. **This ongoing condition does not expire with the issuance of a Certificate of Compliance.**
- 19) No commercial activity is to take place on this dock. **This ongoing condition does not expire with the issuance of a Certificate of Compliance.**
- 20) Once obtained, a recorded copy of the Chapter 91 License permitting this pier shall be submitted to the Commission. If a review of this project is required under Army Corp of Engineers Section 404, evidence of this review shall also be submitted to the Commission. In accordance with the Chapter 91 License, public passage over or around this dock along the shore will be provided and maintained. **This ongoing condition does not expire with the issuance of a Certificate of Compliance.**
- 21) Future maintenance of the approved structure in strict compliance with the Project Plan and the conditions of this Order is permissible upon notification of maintenance shall be made in writing or by telephone to the Commission. Maintenance does not include enlargement or total replacement without the prior written approval of the

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Commission. The path to the dock may be mowed as necessary. **This ongoing condition does not expire with the issuance of a Certificate of Compliance.**

- 22) It is the responsibility of the Applicant, Applicant's representative, owner, and /or successor (s) to ensure that all conditions of this Order are complied with. A copy of this Order of Conditions including the special conditions and Project Plan shall be included in all contracts, subcontracts, and specifications and shall be available on-site upon commencement and during the performance of all activities regulated by this Order.
- 23) Upon completion of work the Applicant shall submit the following to the Conservation Commission to request a Certificate of Compliance (COC):
 1. A Completed Request for a Certificate of Compliance (WPA Form 8A).
 2. A set of post-construction color photographs of the project locus immediately after completion.
 3. An As-Built survey of the structure.
- 24) In case of emergencies, problems or the need to discuss site conditions with the Commission, call the Board Administrator at 508-696-6404.

*ATTEST: Paulo C. DeOliveira, Register
Dukes County Registry of Deeds*